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**MAR 13 2001**

BAKER & MCKENZIE  
101 WEST BROADWAY  
12TH FLOOR  
SAN DIEGO, CA 92101

In re Application of  
Raymond D. McIntyre,  
Stanley W. Johnsen, Marcel Marc,  
Michelango Delfino, and Edward  
Seppi  
Application No. 09/379,439  
Filed: August 23, 1999  
Title of Invention: METHOD AND  
APPARATUS FOR PRODUCING RADIOACTIVE:  
MATERIALS FOR MEDICAL TREATMENT  
USING X-RAYS  
PRODUCED BY AN ELECTRON ACCELERATOR:

**OFFICE OF PETITIONS**  
**NO PATENTS**  
DECISION REFUSING  
STATUS  
UNDER 37 CFR 1.47(a)

This is in response to a petition under 37 CFR 1.47(a), filed January 31, 2000. The delay in treating this petition is regretted.

The petition is dismissed.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)", and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on August 23, 1999, without an executed oath or declaration. Accordingly, on September 9, 1999, a "Notice to File Missing Parts of Application" (hereinafter "Notice") was mailed to Petitioner. The Notice required, in relevant part, an executed oath or declaration.

In response, on January 31, 2000, applicant filed a petition under 37 CFR 1.47(a). The Petition avers that the assignee, Varian Medical Systems, requested in writing that the non-signing inventor, Mr. Michelango Delfino, sign an assignment form and declaration, which he refused.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks item (1) as set forth above.

As to item (1), the applicant has failed to establish that the non-signing inventor, Christopher M. Campbell, was presented with the application papers (specification, claims and drawings). See MPEP 409.03(d).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents  
Box DAC  
Washington, D.C. 20231

By FAX: (703) 308-6916  
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23  
2201 S. Clark Place  
Arlington, VA

Telephone inquiries related to this decision may be directed to Petitions Attorney Derek L. Woods at (703) 305-0014.

A handwritten signature in dark ink, appearing to read "Beverly M. Flanagan", followed by the word "for" in a similar script.

Beverly M. Flanagan  
Supervisory Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy